

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)	
)	
Preserving the Open Internet)	GN Docket No. 09-191
)	
Broadband Industry Practices)	WC Docket No. 07-52

**REPLY COMMENTS OF
THE NATIONAL ASSOCIATION OF MANUFACTURERS.**

The National Association of Manufacturers (NAM) hereby submits its reply comments regarding the Federal Communication Commissions' (Commission) Notice of Proposed Rule Making (NPRM) on Preserving the Open Internet. The NAM applauds the Commission for looking to preserve the future of the Internet and is looking forward to working with the Commission in the future as it proceeds with this NPRM. As explained below, NAM has great confidence in how the management of the Internet has progressed over the years, and is an advocate for strengthening incentives for broadband infrastructure investment. We reiterate our concerns that unnecessary regulation in the advanced telecommunications market would impose burdens on American manufacturers, stifle the rollout of high-speed services to unserved and underserved areas, harm American consumers and prevent the creation of new jobs.

INTRODUCTION

The NAM is the nation's largest industrial trade association, representing small and large manufacturers in every industrial sector and in all 50 states. The NAM's mission is to enhance the competitiveness of manufacturers by shaping a legislative and regulatory environment conducive to U.S. economic growth. Headquartered in Washington, D.C., the NAM has 10 additional offices across the country.

The U.S. manufacturing sector and the broader business community have derived tremendous benefits from our nation's competitive telecommunications market. Moving away from the early days of simple voice calls transferred over copper wires, today's manufacturers utilize VoIP calls, email and instant messaging services, with information and data racing over high-speed fiber optic networks literally at the speed of light. From the cost-savings of Internet Protocol-based communications to just-in-time manufacturing, high-speed broadband access has made the world a smaller place allowing even the smallest of businesses to operate on a global scale.

American manufacturers are truly the beneficiaries of a globally-deployed broadband infrastructure, which has transformed the way they operate. For example, in 2007 U.S. manufacturers led all industry sectors in eCommerce activity, accounting for almost half (55.7 percent) of all eCommerce – over \$1.86 trillion in sales.¹ The trend is growing – eShipments accounts for 35 percent of all manufacturing shipments between 2006 and 2007 alone.²

It is in this interest that the NAM submits these reply comments on the Open Internet Proceeding (Proceeding), so that the Commission may develop a robust plan to best foster an environment where businesses and consumers in unserved areas can obtain the critical broadband services and content they need.

DISCUSSION

The Need for Reflection in Light of the Comcast Decision

A major factor in the success of the Internet has been the government's light regulatory touch, both embodied by the Commission since the Clinton Administration. In fact, the NAM has opposed the imposition of any restrictive rules or regulations on the Internet that would

¹ U.S. Census Bureau, Economics and Statistics Administration; www.census.gov/estats, May 28, 2009

² Ibid.

impede the deployment of broadband infrastructure. However, in light of the recent ruling by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) in *Comcast Corporation v. FCC*,³ the NAM respectfully requests the Commission refrain from moving forward with this proceeding absent a clear Congressional grant of authority.

The D.C. Circuit's decision has made it clear that Congress does need to step in and ensure the Commission has the explicit authority to address any abusive practices by Internet providers on an appropriate basis. In the meantime, we are confident that existing legal and administrative mechanisms will provide the proper checks and balances against inappropriate behavior.

The NAM also requests that the Commission refrain from extending its Title II Common Carrier authority over Internet providers until Congress has the opportunity to address the issue.

Fostering Innovation and Job Growth

In light of recent developments, there are substantial undertakings the Commission can do to improve online competition: expand broadband deployment and foster innovation, so that consumers have more options and network managers have more technology tools at their disposal to manage network traffic. Core to the NAM's beliefs is that continued network expansion will boost U.S. job growth, innovation and competitiveness.

In January of this year, the independent, nonpartisan Milken Institute – in a study commissioned by the NAM – released a report entitled, *Jobs for America: Investments and Policies for Economic Growth and Competitiveness*.⁴ Using data put forward by the Commission when developing the National Broadband Plan, the report determined that an investment of \$55 billion would create over *1.1 million jobs*, provide more than 16 million

³ Comcast Corp. v. FCC, No. 08-1291, <http://caselaw.lp.findlaw.com/data2/circs/dc/081291p.pdf> (D.C. Cir. 2010).

⁴ To read the report, please visit:
<http://www.milkeninstitute.org/publications/publications.taf?function=detail&ID=38801227&cat=resrep>.

Americans with access to high-speed services, generate nearly \$44 billion in earnings and create more than \$158 billion in output.

The opportunities created by fostering both private and public-sector investment would significantly impact the goals put forward by the National Broadband Plan, while providing network managers the opportunity to innovate through the expansion of new services to rural and underserved areas. While the deployment of these new services will account for most of the anticipated 1.1 million jobs, it does not anticipate the opportunities that manufacturers and consumers alike will have as new capabilities are made available to them.

Encouraging market-based competition for investment and innovation will not only spur the expansion of broadband services, but advances in health-care information technology, smart grid technology, education and job training as well. To realize this, we need both private investment and partnerships between governments and private companies.

Focusing the Commission's efforts on incentives for market-based competition that encourages investment and innovation will do more to positively impact the average American's ability to access a free and open Internet than the promulgation of restrictive network management rules ever will.

Using Engineering, not Politics, to Ensure an Open Internet

The NAM also applauds the Commission's proposal to establish a "Technical Advisory Process." The Internet ecosystem has long enjoyed a robustly interactive and collaborative process for the examination and resolution of engineering questions and concerns. With the right process in place, such issues can be identified and discussed among experts before they ever require attention from policy makers. The Commission needs to get the best technical information from a broad range of engineers based on sound engineering principles and not politics. The NAM recommends that the Commission include in the advisory process Chief Technology Officers and other similarly qualified individuals that have practical experience in dealing with complex network management issues.

CONCLUSION

The NAM commends the Commission for a remarkable job in encouraging competition through its regulatory forbearance. By doing so, it has promoted a competitive and innovative Internet that enables broadband network operators to take advantage of technology to maximize capacity, avoid bottlenecks, protect privacy and meet the differing technical requirements of a wide range of Internet services and applications. At the same time, we also would like to commend the Commission for investigating methods to ensure the continued openness of the Internet. The Internet is an ecosystem, its health dependent upon the health of each constituent component – network providers, service providers, content providers, and end-users.

The NAM offers its full support to the Commission as it works with Congress to determine and develop the proper, explicit legal authority to address abusive practices by Internet providers on an appropriate basis. Further, we encourage the Commission to work with private industry to create ways to ensure an open Internet by fostering innovation and job growth. We look forward to working with the Commission to ensure the future of the Internet, while avoiding solutions that might raise costs to consumers, limit efficiency, or disrupt efforts to provide and manage additional capacity so that American consumers can enjoy the full benefits of high-speed broadband.

Respectfully submitted,

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